



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

Ref: 8ENF-L

JUL 20 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ted Ertman, Chair
Weston County Commissioners
1 West Main
Newcastle, WY 82701

Re: Notice of Complaint and Notice of Opportunity for
Hearing Against
Buckhorn Bar & Grill LLC
Docket No. SDWA-08-2005-0042

Dear Mr. Ertman:

Pursuant to section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-3(a)(2)(B), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

EPA is filing a Complaint and Notice of Opportunity for Hearing ("complaint") under section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), against Buckhorn Bar & Grill LLC ("Respondent") for the Buckhorn Bar & Grill public water system in Newcastle, Wyoming. Respondent is in violation of two Administrative Orders ("Order"), Docket Numbers SDWA-08-2001-36 and SDWA-08-2003-0033, which required compliance with the National Primary Drinking Water Regulations ("NPDWRs"). Respondent failed to monitor for total coliform bacteria and nitrate, failed to provide public notice of the violations and failed to report violations to EPA, in violation of the Orders.

A copy of this complaint is enclosed for your information. The complaint does not require any response or action by the County Commission.



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If you have questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Melanie Wasco, Environmental Protection Specialist, who can be reached at (800) 227-8917 extension 6540 or Michelle Marcu, Enforcement Attorney, who can be reached at (800) 227-8917 extension 6921.

Sincerely,

for *Eddie A. Sierra*
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

Ref: 8ENF-L

JUL 20 2005

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Buckhorn Bar & Grill LLC

Steven Macziewski, Registered Agent

25380 N. U.S. Hwy 85

Newcastle, WY 82701

Re: Complaint and Notice of
Opportunity for Hearing
Docket No. **SDWA-08-2005-0042**
PWS ID # 5600600NC

Dear Mr. Macziewski:

Enclosed is an Administrative Complaint and Notice of Opportunity for Hearing ("complaint") filed against Buckhorn Bar & Grill LLC ("Respondent"), under section 1414 of the Safe Drinking Water Act (SDWA) 42 U.S.C § 300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the complaint that Respondent failed to comply with two Administrative Orders, Docket Numbers SDWA-08-2001-36 and SDWA-08-2003-0033, issued on September 26, 2001 and June 5, 2003, respectively, under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). These violations are specifically set out in the complaint.

By law, Respondent has the right to request a hearing regarding the matters set forth in the complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If Respondent does not respond to this complaint within 30 days of receipt, a default judgment may be entered and the proposed civil penalty may be assessed without further proceedings. In Respondent's answer Respondent may request a hearing. Respondent has the right to be represented by an attorney at any stage of these proceedings.

If Respondent does not contest the findings and assessments set forth in the complaint, Respondent may resolve the action by paying the proposed penalty in full pursuant to the Quick Resolution provision (40 C.F.R. § 22.18). Instructions to pay the penalty in this manner are



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described in the complaint under the section entitled "Terms of Payment for Quick Resolution."

Whether or not Respondent requests a hearing, Respondent may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. Respondent may appear at the conference itself and/or be represented by counsel.


EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a final order by the Regional Judicial Officer, EPA Region 8.

A request for an informal conference does not extend the 30 day period during which Respondent must submit a written answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneous with, the adjudicatory hearing.

If Respondent has questions specific to the violations or proposed penalty, the most knowledgeable people on my staff regarding this matter are Melanie Wasco, Environmental Protection Specialist, who can be reached at (303) 312-6540 or Michelle Marcu, Enforcement Attorney, who can be reached at (303) 312-6921.

We urge Respondent's prompt attention to this matter.

Sincerely,

for 
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Larry Robinson, WYDEQ
Dr. Karl Musgrave, WYDOH

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2005 JUL 20 AM 9:36

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)

Buckhorn Bar & Grill, LLC)
25380 N. U.S. HWY 85)
New Castle, Wyoming)
PWS ID# WY5600600)

Respondent)

) Docket No. SDWA-08-2005-0042

) **COMPLAINT AND NOTICE OF**
) **OPPORTUNITY FOR HEARING**

Proceedings under section 1414(g)
of the Safe Drinking Water Act,
42 U.S.C. § 300g-3(g))

COMPLAINT

This civil administrative Complaint and Notice of Opportunity for Hearing ("complaint") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by section 1414(g)(3) of the Safe Drinking Water Act, as amended ("Act"), 42 U.S.C. § 300g-3(g)(3). Section 1414(g)(3) of the Act authorizes the Administrator of the EPA to assess an administrative civil penalty, not exceeding \$25,000¹, against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the Act.

Complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly authorized to institute this action. This proceeding is subject to EPA's "Consolidated Rules of

¹In an action for violations occurring after March 15, 2004, a penalty of up to \$27,500 is authorized. 69 Fed. Reg. 7121 (2004) (codified at 40 C.F.R. § 19.4).

Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. ("Consolidated Rules of Practice")(Complainant's Attachment 1).

GENERAL ALLEGATIONS

The following general allegations apply to each count of this complaint:

1. Buckhorn Bar & Grill LLC ("Respondent") is a limited liability corporation under the laws of the state of Wyoming as of April 2001 and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Buckhorn Bar & Grill Water System (the "System"), located in Weston County, Wyoming for the provision to the public of piped water for human consumption.
3. The Buckhorn Bar & Grill Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.

5. Respondent operates a system that is supplied solely by a ground water source consisting of one spring. The system serves approximately 25 persons per day through 3 service connections. The System has been identified as a public water system since October 1978.
6. On September 26, 2001, EPA issued an Administrative Order ("1st Administrative Order") (Docket No. SDWA-08-2001-36) to the Respondent pursuant to section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1), citing violations of the National Primary Drinking Water Regulations ("NPDWRs") (40 C.F.R. part 141). A copy of the 1st Administrative Order is attached to this complaint and incorporated herein (Complainant's Attachment 2).
7. The 1st Administrative Order required the Respondent, among other things, to achieve compliance with the NPDWRs that EPA found Respondent violated.
8. On June 5, 2003, EPA issued a second Administrative Order ("2nd Administrative Order") (Docket No. SDWA-08-2003-0033) to the Respondent pursuant to section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1), citing additional violations of the NPDWRs which occurred since EPA issued the 1st Administrative Order. A copy of the 2nd Administrative Order is attached to this complaint and incorporated herein (Complainant's Attachment 3).
9. The 2nd Administrative Order required the Respondent, among other things, to achieve compliance with the NPDWRs that EPA found Respondent violated.

10. On March 9, 2004, EPA sent Respondent a "Violation of Administrative Order" letter citing Respondent's failure to comply with the 2nd Administrative Order and the NPDWRs. (Complainant's Attachment 4).
11. On July 13, 2004, EPA sent Respondent a "Violation of Administrative Order" letter citing Respondent's failure to comply with the 1st Administrative Order and the NPDWRs. (Complainant's Attachment 5).

SPECIFIC ALLEGATIONS

Count I

Failure to Monitor for Total Coliform Bacteria

12. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
13. Page 4, paragraph 1 of the "Order" section of the 2nd Administrative Order required Respondent to comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring to comply with the MCLs as stated in 40 C.F.R. § 141.63. The paragraph also required Respondent to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
14. Respondent failed to perform quarterly bacteriological monitoring in the third quarter (July through September) of 2003, the second quarter (April through June) of 2004 and the first quarter (January through April) of 2005, in violation of the 2nd Administrative Order and 40 C.F.R. § 141.21(a).

Count II
Failure to Monitor for Nitrate

15. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
16. Page 4, paragraph 1 of the “Order” section of the 1st Administrative Order required Respondent to comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b) and also required Respondent to report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
17. Respondent failed to monitor its water for nitrate in 2003 and 2004, in violation of the 1st Administrative Order and 40 C.F.R. § 141.23(d).

Count III
Failure to Notify the Public
of NPDWRs Violations

18. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations.
19. Pages 4 and 5, paragraph 2 of the “Order” section of the 1st Administrative Order required Respondent, within one year of the effective date of the order, to provide a public notice for the violations specified in the 1st Administrative Order and to comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation and submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

20. Pages 4 and 5, paragraph 2 of the "Order" section of the 2nd Administrative Order required Respondent, within thirty (30) days of the effective date of the order, to provide a public notice for the violations specified in the 2nd Administrative Order and to comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation and submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).
21. Respondent failed to provide notice to the public of the violations identified in the 1st and 2nd Administrative Orders and subsequent violations referenced in the counts set forth above, and failed to submit a copy of the public notice to EPA, in violation of the 1st and 2nd Administrative Orders and 40 C.F.R. §§ 141.201 and 141.31(d).

Count IV
Failure to Report Noncompliance
with NPDWRs to EPA

22. 40 C.F.R. § 141.31(b) requires that except where a different period is specified by 40 C.F.R. part 141, public water systems shall report any failure to comply with the NPDWRs (40 C.F.R. part 141) to EPA within 48 hours.
23. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within ten days after the system discovers the violation.
24. Page 5, paragraph 3 of the "Order" section of the 1st Administrative Order and page 6, paragraph 4 of the 2nd Administrative Order required Respondent to comply with 40

- C.F.R. § 141.31(b) by reporting to EPA any failure to comply with any NPDWR (40 C.F.R. part 141) within 48 hours.
25. Pages 5 and 6, paragraph 3 of the "Order" section of the 2nd Administrative Order required Respondent to comply with 40 C.F.R. § 141.21(g)(2) by reporting to EPA any failure to comply with coliform monitoring requirements within 10 days after the system discovers the violation.
26. Respondent failed to report to EPA instances of noncompliance detailed in the Counts I, II and III, as set forth above, in violation of the 1st and 2nd Administrative Orders and 40 C.F.R. §§ 141.21(g)(2) and 141.31(b).

PROPOSED ADMINISTRATIVE CIVIL PENALTY

Section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), authorizes the Administrator to assess an administrative civil penalty of up to \$25,000² for violation of an administrative order issued under section 1414(g)(1) of the Act. The proposed penalty has been determined in accordance with section 1414 of the Act, 42 U.S.C. § 300g-3. For purposes of determining the amount of any penalty to be assessed to calculate a rational and consistent penalty, EPA has taken into account the seriousness of the violation, the population at risk, and other appropriate factors, including Respondent's degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, as known to Complainant at this time. Based on the above factors, EPA proposes to assess an administrative civil penalty of One Thousand Two Hundred Fifty Dollars (\$1,250) against Respondent for violation of the 1st and 2nd Administrative Orders.

² See *supra* note 1.

TERMS OF PAYMENT FOR QUICK RESOLUTION
(40 C.F.R. § 22.18)

If Respondent does not contest the findings and penalty proposal set out above, this action may be resolved by paying the proposed penalty in full pursuant to the Quick Resolution provision of the Consolidated Rules of Practice (40 C.F.R. § 22.18). If such payment is made within 30 calendar days of receipt of this Complaint, then no Answer need be filed. If Respondent elects to pay the penalty according the Quick Resolution provision, penalty payment must be made by certified or cashier's check for \$1,250 payable to "Treasurer, United States of America," and remitted to:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA. 15251

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check. A copy of the check must be mailed simultaneously to the attorney listed below and the EPA Regional Hearing Clerk at the address below:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
999 18th Street, Suite 300
Denver, Colorado 80202-2466

Payment of the penalty in this manner does not relieve Respondent of its obligation to comply with the requirements of the statute and regulations. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing on this matter.

OPPORTUNITY TO REQUEST A HEARING

As provided in section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), a respondent has the right to request a public hearing on any material fact alleged in this complaint or on the appropriateness of the proposed penalty or to assert that respondent is entitled to judgment as a matter of law.

If Respondent wishes to request a hearing, Respondent must file a written answer in accordance with 40 C.F.R. §§ 22.15 and 22.42 within thirty (30) calendar days after this complaint is served. If this complaint is served by mail, Respondent has an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.7(c).

If Respondent requests a hearing in its answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings, and the Regional Judicial Officer will preside. However, Respondent has the right under the Act to elect a hearing on the record in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. §§ 551, et seq. ("APA"). To exercise this right, Respondent must include in its answer a specific request for a hearing on the record in accordance with 5 U.S.C. § 554. Upon such request, the Regional Hearing Clerk will recaption the pleadings and documents in the record as necessary. (See 40 C.F.R. § 22.42) Pursuant to such a request, subpart I will not apply to the proceedings and an Administrative Law Judge from Washington, D.C., will preside.

Respondent's answer must be in writing. An original and one copy of the answer must be sent to the attorney listed below and the EPA Regional Hearing Clerk at the address below:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
999 18th Street, Suite 300
Denver, Colorado 80202-2466

FAILURE TO FILE AN ANSWER

To avoid entry of a default order against Respondent pursuant to 40 C.F.R. § 22.17 for the full amount of the penalty proposed in this complaint, Respondent must file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint. Respondent's answer should clearly and directly admit, deny, or explain each of the factual allegations contained in this complaint with regard to which Respondent has any knowledge. Respondent's answer should state (1) the circumstances or arguments which are alleged to constitute grounds of defense, (2) a concise statement of the facts which Respondent intends to place at issue in the hearing, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of the allegation.

SETTLEMENT CONFERENCE

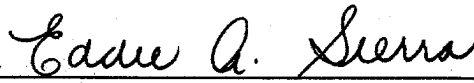
EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation, in a settlement conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. part 22. If a settlement can be reached, its terms shall be

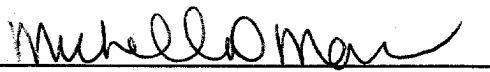
expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer. A request for a settlement conference, or any questions that Respondent may have regarding this complaint, should be directed to the attorney listed below.

Dated this 11 day of July, 2005.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8

Complainant.


for Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice


Michelle D. Marcu
Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone Number: (303) 312-6921
Facsimile Number: (303) 312-6953

IN THE MATTER OF:

Buckhorn Bar & Grill LLC

DOCKET NUMBER:

SDWA-08-2005-0042

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with Attachments 1 through 5 were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was delivered as follows:

Via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to:

Buckhorn Bar & Grill LLC
Steven Macziewski, Registered Agent
25380 N. U.S. Hwy 85
Newcastle, WY 82701

and

Ted Ertman, Chair
Weston County Commissioners
1 West Main
Newcastle, WY 82701

Date: 7/20/05

By: Judith McTernan
Judith McTernan

develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input to the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. This rule does not impose any enforceable duties on these entities. Instead, it merely revises the procedural rules governing EPA's administrative enforcement proceedings.

F. Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the E.O. 13045 because it is not "economically significant" as defined in E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

G. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the

development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 22

Environment protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 30, 1999.

Carol M. Browner,
Administrator.

Therefore, 40 CFR part 22 is revised to read as follows:

PART 22—COSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 Ex parte discussion of proceeding.
- 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

Subpart F—Appeals and Administrative Review

- 22.29 Appeal from or review of interlocutory orders or rulings.
- 22.30 Appeal from or review of initial decision.

1st page only



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

SEP 26 2001

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Weston County Commissioners
c/o Ted Elliott, Chair
1 West Main
Newcastle, Wyoming 82701

Re: Notice of Safe Drinking Water
Act Enforcement Action Against
Buckhorn Bar & Grill
PWS ID#5600600

Dear Mr. Elliott:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Buckhorn Bar & Grill Water System, Weston County, Wyoming. This Order requires that the Buckhorn Bar & Grill Water System take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The Buckhorn Bar & Grill Water System has violated 40 CFR §141.23(d), §141.201, and §141.31(b) for failure to: monitor for nitrate; provide public notice of the above violations, and report SDWA violations to EPA within 48 hours.



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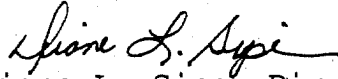
SPD
5600600
DR

AO for FTM
NITRATE 2000!

-2-

A copy of this Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Olive Hofstader at (303) 312-6467.

Sincerely,



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

SEP 26 2001

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Steven Macziewski
Buckhorn Bar & Grill
25380 U. S. Highway 85
Newcastle, Wyoming 82701

Re: Administrative Order
Docket No. SDWA-08-2001-36
Buckhorn Bar & Grill
PWS ID #WY5600600

Dear Mr. Macziewski:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Buckhorn Bar & Grill Water System ("Respondent") is a public water supplier as defined by the SDWA and that the Respondent has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 CFR §§141.23(d), 141.201, and 141.31(b) for: failure to monitor for nitrate; failure to provide public notice of the above violation, and for failure to report SDWA violations to EPA within 48 hours.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

EPA encourages your public water system operator or manager to complete operator certification training courses. Please contact Louise Cordova at (307)777-7781 with the Wyoming Department of Environmental Quality to learn about available training opportunities.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on



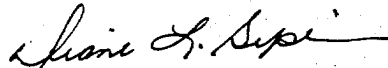
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regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Olive Hofstader at the address on the letterhead and include the mailcode 8ENF-T, or call (800)227-8917, extension 6467 or (303)312-6467. If you wish to have an informal conference with EPA, you may also call or write Ms. Hofstader. If you are represented by an attorney or have legal questions, please call Dana Stotsky at the above number extension 6905 or at (303)312-6905.

We urge your prompt attention to this matter.

Sincerely,



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA

cc: Weston County Commissioners

Larry Robinson
Wyoming Department of Environmental Quality
Water Quality Division

Dr. Karl Musgrave
Wyoming Department of Health



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

01 SEP 2001 AM 9:30

IN THE MATTER OF)
Mr. Steven Macziewski)
Buckhorn Bar & Grill)
Newcastle, Wyoming)

EPA REGION VIII
HEARING CLERK

Respondent)

ADMINISTRATIVE ORDER

Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. §300g-3(g))

Docket No. SDWA-08-2001-36

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. §300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. Buckhorn Bar & Grill, LLC is a limited liability corporation under the laws of the state of Wyoming as of June 2000 and therefore a "person" within the meaning of 40 CFR §141.2.
2. Respondent owns and/or operates a system, the Buckhorn Bar & Grill Water System (the "System"), located in Weston County, Wyoming for the provision to the public of piped water for human consumption.
3. The Buckhorn Bar & Grill Water System has at least 15

service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. §300f(4), and a "non-community water system" within the meaning of 40 CFR §141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. §300f(5) and 40 CFR §141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. §300g, and its implementing regulations, 40 CFR Part 141.
5. According to a September 1995 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of one spring operating since 1972 and serves approximately 25 persons daily through 5 service connections. The System has been identified as a public water system since October 1978.

FINDINGS OF VIOLATION

I.

1. 40 CFR §141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate MCL as stated in 40 CFR §141.62.

2. Respondent last monitored for nitrate in September 1999 but failed to monitor for nitrate in 2000, in violation of 40 CFR §141.23(d).

II.

1. 40 CFR §141.201 requires owners and/or operators of public water systems to notify the public of any National Primary Drinking Water Regulation ("NPDWR") violations, including violations of monitoring requirements, and testing procedures found in 40 CFR Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section I, in violation of 40 CFR §141.201.

III.

1. 40 CFR §141.31(b) requires that public water systems shall report any failure to comply with the National Primary Drinking Water Regulations to EPA within 48 hours.
2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of Violation Sections I and II, in violation of 40 CFR §141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of this Order, and annually thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 CFR §141.23(d) to determine compliance with the nitrate MCL appearing at 40 CFR §141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 CFR §141.31(a).
2. No later than one year from the date of this Order, Respondent must comply with the public notice requirements set forth at 40 CFR §141.201 et seq. to return to compliance with 40 CFR §§141.201, 141.204, and 141.205. Specifically, Respondent must provide public notice of the failure to monitor for nitrate in accordance with 40 CFR §141.204. Alternatively, Respondent may use an annual report detailing all violations and situations that occurred during the previous twelve months. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method

reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the publication notification requirements at 40 CFR §141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 CFR §141.31(d).

3. Upon the effective date of this Order, Respondent shall comply with 40 CFR §141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) to EPA within 48 hours.
4. Reporting requirements specified in this Order shall be provided by certified mail to:

Olive C. Hofstader
U. S. EPA Region VIII (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 CFR §141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, instituted under Section 1414(g)(3)(A) of the Act, 42 U.S.C. §300g-3(g)(3)(A), may subject Respondent to an administrative civil penalty of up to \$25,000 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B), or a civil penalty of not more than \$27,500 per day of violation, assessed by a U.S. District Court, under Section 1414(g)(3)(C) of the Act, 42 U.S.C. §300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. §300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. District Court, under Section 1414(b) of the Act, 42 U.S.C. §300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 26th day of September, 2001.

Michael T. Risner
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Dianne L. Sipe
Dianne L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

JUN - 5 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Buckhorn Bar & Grill, LLC
c/o Steven R. Macziewski, Registered Agent
25380 N. U.S. HWY 85
Newcastle, WY 82701

Re: Administrative Order
Docket No. SDWA-08-2003-0033
PWS ID #5600600

Dear Mr. Macziewski:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Buckhorn Bar & Grill Water System (System) is a public water supplier as defined by the SDWA and that the owner of the system has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(a), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on



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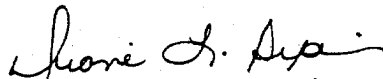
2.

regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-T, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Dana Stotsky at the above 800 number, extension 6905, or at (303) 312-6905.

We urge your prompt attention to this matter.

Sincerely,



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
Public Notice template
SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

JUN - 5 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Weston County Commissioners
c/o Martin Tysdal, Chair
1 West Main
Newcastle, WY 82701

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Buckhorn Bar & Grill
PWS ID #5600600

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Buckhorn Bar & Grill, Newcastle, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.21, 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to provide public notice of the violations; failure to report SDWA violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County

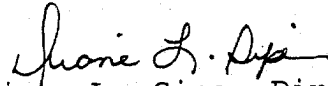


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Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



Printed on Recycled Paper

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

03 JUN -5 AM10:38

IN THE MATTER OF)

Buckhorn Bar & Grill, LLC)
25380 N. U.S. HWY 85)
New Castle, Wyoming)
PWS ID# WY5600600)

Respondent)

Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))

EPA REGION VIII
HEALTH CLERK

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2003-0033**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Buckhorn Bar & Grill LLC ("Respondent") is a limited liability corporation under the laws of the state of Wyoming as of April 2001 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Buckhorn Bar & Grill Water System (the "System"), located in Weston County, Wyoming for the provision to the public of piped water for human consumption.

3. The Buckhorn Bar & Grill Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an October 18, 2001 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of one spring. The system serves approximately 25 persons per day through 3 service connections. The System has been identified as a public water system since October 1978.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance with the

maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 3rd (July-September) quarter in 2001, the 1st (January-March) quarter in 2002, the 3rd (July-September) quarter in 2002 and the 4th (October-December) quarter in 2002, in violation of 40 C.F.R. § 141.21(a).

II.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section I, in violation of 40 C.F.R. § 141.201.

III.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a total coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within 10 days after the system discovers the violation.

2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

IV.

1. 40 CFR §141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II, in violation of 40 CFR §141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. As of the effective date of this order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. No later than 30 days from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation in Section I in this Order to return to compliance with 40 C.F.R. § 141.201. This notice must be given by any one

of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the

system discovers the violation.

4. Except where a different reporting period is specified in paragraph 3 above, upon the effective date of this Order, Respondent shall comply with 40 CFR §141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) to EPA within 48 hours.
5. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco
U. S. EPA Region 8 (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

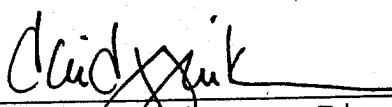
GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g)(3)(A), 42 U.S.C. § 300g-3(g)(3)(A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$27,500 per day of violation assessed by an

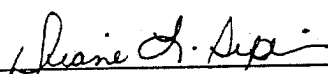
appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).

3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 5th day of June, 2003.



Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300
DENVER, CO 80202-2466

2004 MAR -9 AM 9:40

Ref: 8-ENF-W

MAR - 9 2004

FILED
EPA REGION VIII
HEARING CLERK

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Buckhorn Bar & Grill, LLC
c/o Steven R. Macziewski, Registered Agent
25380 N. U.S. HWY 85
Newcastle, WY 82701

Re: Administrative Order Violation
Docket No. SDWA-08-2003-0033
PWS ID #5600600

Dear Mr. Macziewski:

On June 5, 2003, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2003-0033, ordering the Buckhorn Bar & Grill Water System's ("the System") compliance with the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations, the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

Our records indicate that the System is in violation of the Administrative Order ("the Order"). The Order requires the District to:

1. Comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring. Respondent was to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

EPA has not received bacteriological sample results for 3rd quarter (July-September) 2003. If monitoring was completed, send the results to EPA immediately. If monitoring was not completed, public notice of the violations will need to be completed immediately and a copy sent to EPA.

2. No later than 30 days from the effective date of the Order, provide notice to the public of the violations



detailed in the Order and submit a copy to EPA within 10 days of completion of the public notice as required by 40 C.F.R. §§141.201, 141.203, 141.205, and 141.31(d).

EPA has not received a public notice from Respondent. If you conducted public notice, please provide a copy to EPA immediately. If you have not yet conducted public notice, do so immediately and provide a copy to EPA.

2. Comply with 40 C.F.R. § 141.21(g) (2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.

The failure to monitor bacteriological quality violation for 3rd quarter (July-September) 2003 was not reported to EPA.

EPA is considering additional enforcement action as a result of your non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$27,500 per day per violation of the Order, and/or (2) a court injunction ordering you to comply.

If you have any questions or wish to have an informal conference with EPA, you may contact Dana Stotsky, Enforcement Attorney, at (303) 312-6905 or at the following address:

Dana Stotsky, Enforcement Attorney
U.S. EPA, Region 8 (8-ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-246

We urge your prompt attention to this matter.

Sincerely,



Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466

<http://www.epa.gov/region08>

JT
WC File

2004 JUL 13 AM 8:06

Ref: 8ENF-W

JUL 13 2004

FILED
EPA REGION VIII
HEARING CLERK

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0001 7778 6028

Mr. Steven Macziewski
Buckhorn Bar & Grill
25380 U. S. Highway 85
Newcastle, Wyoming 82701

Re: Violation of Administrative Order
Docket No. SDWA-08-2001-36
Buckhorn Bar & Grill
PWS ID #WY5600600

Dear Mr. Macziewski:

On September 26, 2001, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order (Order) to Buckhorn Bar & Grill (Respondent), Docket No. SDWA-08-2001-36. This Order was issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations, the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

Our records indicate that Buckhorn Bar & Grill is in violation of the Order. The Order requires Buckhorn Bar & Grill to:

1. Comply with the requirements of 40 C.F.R. § 141.23(d) to perform annual nitrate monitoring. Respondent was to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

EPA has not received monitoring results for nitrate sampled in 2003.

2. Provide notice to the public of the violations detailed in the Order and submit a copy to EPA within 10 days of completion of the public notice as required by 40 C.F.R. §§ 141.201, 141.204, 141.205, and 141.31(d).

EPA has not received a public notice from the Respondent. If you conducted public notice, please provide a copy to EPA



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immediately. If you have not yet conducted public notice, do so immediately including new violations described in this letter, and provide a copy to EPA.

3. Comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with National Primary Drinking Water Regulations to EPA within 48 hours.

The failure to monitor nitrate violation for 2003 was not reported to EPA.

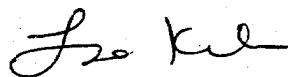
You must take immediate action to return your system to compliance with the National Primary Drinking Water Regulations, 40 C.F.R. Part 141, and Administrative Order, Docket No. SDWA-08-2002-14. EPA is considering additional enforcement action as a result of your non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering you to comply.

If you have any questions or wish to have an informal conference with EPA, you may contact Dana Stotsky at (303) 312-6905, or at the following address:

Dana Stotsky
Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

If you are represented by counsel, please have your attorney contact Mr. Stotsky. We urge your prompt attention to this matter.

Sincerely,



Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Larry Robinson, WY DEQ

